

LITTLETON, JOYCE, UGHETTA, PARK & KELLY LLP  
Wendy B. Shepps (WS-1207)  
*Attorneys for Defendant Cohen & Slamowitz, LLP*  
39 Broadway, 34th Floor  
New York, New York 10006  
(212) 404-5777

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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SHIMON GOTLIB,	:
	:
Plaintiff,	:
	:
- against -	:
	: <b>11-CV-6292</b>
	:
COHEN & SLAMOWITZ, LLP	: <b><u>ANSWER</u></b>
	:
Defendant.	:
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Defendant, COHEN & SLAMOWITZ, LLP (hereinafter “Defendant or “COHEN & SLAMOWITZ”), by its attorneys, LITTLETON, JOYCE, UGHETTA, PARK & KELLY LLP hereby responds, upon information and belief, to the Plaintiff’s Complaint, as follows:

**FIRST:** Denies the truth of each and every allegation contained within paragraph “1” of Plaintiff’s Complaint.

**SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “2” of Plaintiff’s Complaint.

**THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “3” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

**FOURTH:** Admits the truth of the allegations contained within paragraph “4” of Plaintiff’s Complaint.

**FIFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “5” of Plaintiff’s Complaint.

**SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “6” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

**SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “7” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

**EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “8” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

**NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “9” of Plaintiff’s Complaint.

**TENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “10” of Plaintiff’s Complaint.

**ELEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “11” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

**TWELFTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “12” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**THIRTEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “13” of Plaintiff’s Complaint,

and in addition, refers all questions of law to the trial court for judicial determination.

**FOURTEENTH:** Denies the truth of each and every allegation contained within paragraph “14” of Plaintiff’s Complaint.

**FIFTEENTH:** Denies the truth of each and every allegation contained within paragraph “15” of Plaintiff’s Complaint.

**SIXTEENTH:** Denies the truth of each and every allegation contained within paragraph “16” of Plaintiff’s Complaint.

**SEVENTEENTH:** Denies the truth of each and every allegation contained within paragraph “17” of Plaintiff’s Complaint.

**EIGHTEENTH:** Denies the truth of each and every allegation contained within paragraph “18” of Plaintiff’s Complaint.

**NINETEENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “19” of Plaintiff’s Complaint and in addition, refers all questions of law to the trial court for judicial determination.

**TWENTIETH:** Admits the truth of the allegations contained within paragraph “20” of Plaintiff’s Complaint.

**TWENTY-FIRST:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “21” of Plaintiff’s Complaint.

**TWENTY- SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “22” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**TWENTY-THIRD:** Denies the truth of the allegation contained within paragraph “23” of Plaintiff’s Complaint that Defendant “acquired” plaintiff’s “obligation, or

alleged obligation, owed or due, or asserted to be owed or due an original creditor other than Defendant”. Defendant denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained within paragraph “23” of Plaintiff’s Complaint, and in addition, states that the contents of the documents referred to therein speak for themselves.

**TWENTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “24” of Plaintiff’s Complaint, and in addition, state that the contents of the documents referred to therein speak for themselves.

**TWENTY-FIFTH:** Denies the truth of each and every allegation contained within paragraph “25” of Plaintiff’s Complaint.

**TWENTY-SIXTH:** Denies the truth of each and every allegation contained within paragraph “26” of Plaintiff’s Complaint.

**TWENTY-SEVENTH:** Denies the truth of each and every allegation contained within paragraph “27” of Plaintiff’s.

**TWENTY-EIGHTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “28” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**TWENTY-NINTH:** Denies the truth of each and every allegation contained within paragraph “29” of Plaintiff’s Complaint.

**THIRTIETH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “30” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**THIRTY-FIRST:** Denies knowledge or information sufficient to form a belief

as to the truth of each and every allegation contained within paragraph “31” of Plaintiff’s Complaint, and in addition, state that the contents of the documents referred to therein speak for themselves.

**THIRTY-SECOND:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “32” of Plaintiff’s Complaint.

**THIRTY- THIRD:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “33” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**THIRTY-FOURTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “34” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**THIRTY-FIFTH:** Denies the truth of each and every allegation contained within paragraph “35” of Plaintiff’s Complaint.

**THIRTY-SIXTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “36” of Plaintiff’s Complaint, and in addition, state that the contents of the documents referred to therein speak for themselves.

**THIRTY-SEVENTH:** Denies the truth of each and every allegation contained within paragraph “37” of Plaintiff’s Complaint.

### **FIRST CAUSE OF ACTION**

**THIRTY-EIGHTH:** Defendant repeats, reiterates and realleges each and every

denial and denial asserted upon information and belief in response to paragraphs “1” through “38” of the Plaintiffs’ Complaint as if the same were repeated verbatim at length herein.

**THIRTY-NINTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “39” of Plaintiff’s Complaint.

**FORTIETH:** Denies the truth of each and every allegation contained within paragraph “40” of Plaintiff’s Complaint.

**FORTY-FIRST:** Denies the truth of each and every allegation contained within paragraph “41” of Plaintiff’s Complaint.

**FORTY-SECOND:** Denies the truth of each and every allegation contained within paragraph “42” of Plaintiff’s Complaint.

**FORTY-THIRD:** Denies the truth of each and every allegation contained within paragraph “43” of Plaintiff’s Complaint.

**FORTY-FOURTH:** Denies the truth of each and every allegation contained within paragraph “44” of Plaintiff’s Complaint, including subparagraphs A through E.

**FORTY-FIFTH:** Denies the truth of each and every allegation contained within paragraph “45” of Plaintiff’s Complaint.

**FORTY-SIXTH:** Denies the truth of each and every allegation contained within paragraph “46” of Plaintiff’s Complaint.

**FORTY-SEVENTH:** Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation contained within paragraph “47” of Plaintiff’s Complaint, and in addition, refers all questions of law to the trial court for judicial determination.

**FORTY-EIGHTH:** Denies the truth of each and every allegation contained

within paragraph “48” of Plaintiff’s Complaint.

**FORTH-NINTH:** Denies the truth of each and every allegation contained within paragraph “49” of Plaintiff’s Complaint.

**AS AND FOR ANSWERING DEFENDANT’S  
FIRST AFFIRMATIVE DEFENSE**

Plaintiff’s Complaint fails to state a valid cause of action upon which relief may be granted.

**AS AND FOR ANSWERING DEFENDANT’S  
SECOND AFFIRMATIVE DEFENSE**

The Plaintiff’s Complaint is not supported by documentary evidence.

**AS AND FOR ANSWERING DEFENDANT’S  
THIRD AFFIRMATIVE DEFENSE**

Upon information and belief, the causes of action asserted in the Plaintiff’s Complaint against the Answering Defendant are barred in whole or in part by the doctrine of estoppel.

**AS AND FOR ANSWERING DEFENDANT’S  
FOURTH AFFIRMATIVE DEFENSE**

If Plaintiff has incurred any damages herein, which claim is expressly denied, such damages are the result of his own culpable conduct.

**AS AND FOR ANSWERING DEFENDANT’S  
FIFTH AFFIRMATIVE DEFENSE**

Defendant did not violate, in whole or in part, any provision of the FDCPA.

**AS AND FOR ANSWERING DEFENDANT'S  
SIXTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was not intentional and resulted from a *bona fide* error notwithstanding reasonable procedures adopted to avoid any such error.

**AS AND FOR ANSWERING DEFENDANT'S  
SEVENTH AFFIRMATIVE DEFENSE**

To the extent a violation of any provision of 15 USC §1692 occurred, which violation is expressly denied, such violation was the result of acts of non-agents, or agents acting outside the scope of their authority.

**AS AND FOR ANSWERING DEFENDANT'S  
EIGHTH AFFIRMATIVE DEFENSE**

The instant action is barred by the expiration of the applicable statute of limitations.

**AS AND FOR ANSWERING DEFENDANT'S  
NINTH AFFIRMATIVE DEFENSE**

Plaintiff is precluded by the doctrine of waiver and estoppel.

**AS AND FOR ANSWERING DEFENDANT'S  
TENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to mitigate his damages.



**WHEREFORE**, Answering Defendant LAW OFFICES OF COHEN & SLAMOWITZ, LLP, respectfully requests that this Court enter judgment herein dismissing Plaintiff's claims against them in their entirety, together with such other, further and different relief as this Court deems just and proper.

Dated: New York, New York  
March 25, 2012

Respectfully Yours,

**LITTLETON, JOYCE, UGHETTA,  
PARK & KELLY LLP**



By: \_\_\_\_\_  
Wendy B. Shepps (WS1207)  
Attorneys for Defendant  
COHEN & SLAMOWITZ, LLP  
39 Broadway, 34<sup>th</sup> Floor  
New York, New York 10006  
(212) 404-5777  
File No.: 07883.00063

TO: Adam Fishbein, P.C.  
Attorneys for Plaintiff  
Shimon Gotlib  
483 Chestnut Street  
Cedarhurst, New York 11516

**CERTIFICATE OF SERVICE**

I, Wendy B. Shepps, hereby certify that on March 25, 2012, I electronically filed the foregoing Answer with the Clerk of the District Court using its CM/ECF system which would then electronically notify Adam Fishbein, P.C., counsel for the Plaintiff.

A handwritten signature in black ink, appearing to read 'Wendy B. Shepps', with a long horizontal flourish extending to the right.

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Wendy B. Shepps (WS 1207)